

REMARKS

Claims 75-96 remain pending after entry of this amendment. Claims 1-74 were cancelled herein. Claims 75-96 were added herein. Favorable reconsideration is respectfully requested in light of the amendments and remarks submitted herein.

The Examiner has amended the restriction requirement, a response to the amended restriction requirement is provided below.

Claims 1-5, 11-13, 16, and 19 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Nath (IN 93772) in view of Fost et al. (US 5,215,976). Applicant respectfully traverses this rejection.

Claims 20-24 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Nath and Fost et al., as applied to claim 1 above, and further in view of Uckun et al. (Book of Abstracts, 216th ACS National Meeting, Boston, August 23-27 (1998), MEDI-211. American Chemical Society: Washington DC). Applicant respectfully traverses this rejection.

Claims 20, and 28-34 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Nath and Fost et al. as applied to claim 1 above, and further in view of D'Cruz et al. (6,051,603). Applicant respectfully traverses this rejection.

Claims 20, and 36-39 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Nath and Fost et al. as applied to claim 1 above, and further in view of Uckun et al. (U.S. 6,136,335). Applicant respectfully traverses this rejection.

Amended Restriction Requirement

The Examiner has required a restriction between one of the following amended groups under 35 U.S.C. § 121:

- I. Claims 1-52, drawn to a spermicidal composition comprising a gel-microemulsion comprising an oil-in-water microemulsion and a polymeric hydrogel, classified in class 514, subclasses 50, 78, 49, class 536, subclasses 123.1, 114, class 554, subclass 1+, class 556, subclass 42, class 564, subclass 17.
- II. Claims 59-61, drawn to a method for inhibiting the motility of sperm, classified in class 514, subclasses 50, 78, class 536, subclasses 114, 123.1, class 554, subclass 1+.

- III. Claims 62-73, drawn to a pharmaceutical composition adapted for the topical delivery of a therapeutic agent, classified in class 514, subclasses 50, 78, class 536, subclasses 114, 123.1, class 554, subclass 1+, class 530, subclass 852.
- IV. Claims 53-58, drawn to a process for preparing a pharmaceutical composition of claim 1, classified in class 514, subclasses 50, 78, 49, class 536, subclasses 123.1, 114 class 554, subclass +1, class 556, subclass 42, class 564, subclass 17.

Applicant elects, with traverse claims 1-52, group I. Applicant respectfully submits that searching the claims designated as group II, III, and IV would not cause an undue burden on the Examiner.

Regardless of the restriction and subsequent election, Applicant notes that based on MPEP § 821.04, once a product claim is found allowable, the claims directed to the process of using that product and the process of making that product (which contain all of the limitations or are dependent from the allowable product claim) will be rejoined. The claims directed to the process of using and making that product must then be fully examined for patentability. MPEP § 821.04.

Applicant respectfully asserts that claims 59-61, as amended herein are directed to a process of using the product of claims 1-52; and claims 53-58 are directed to a process of making the product of claim 1; and therefore should be rejoined once the subject matter of claims 1-52 are found allowable.

Applicant respectfully notes that newly added claims 75-96 correspond to claims that fall within Group I, and therefore should be examined herein.

Rejections Under 35 U.S.C. § 103

Claims 20-24 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Nath and Fost et al., as applied to claim 1 above, and further in view of Uckun et al. (Book of Abstracts, 216th ACS National Meeting, Boston, August 23-27 (1998), MEDI-211. American Chemical Society: Washington DC).

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Although Applicant does not necessarily agree with these rejections, the rejected claims have been cancelled herein in order to expedite the prosecution of the subject matter indicated as allowable.

Newly Added Claims

Claims 75-96 were added herein. Claims 75-96 correspond to previously presented claims 6-10, 14, 15, 17, 18, and 40-52. Applicant notes that the Examiner indicated that these claims included allowable subject matter. Therefore, Applicant respectfully asserts that newly presented claims 75-96 are allowable.

Conclusions

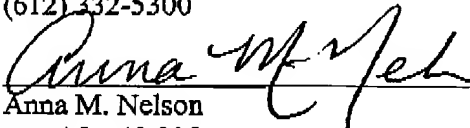
In view of the above amendments and remarks, Applicant respectfully requests a Notice of Allowance. If the Examiner believes a telephone conference would advance the prosecution of this application, the Examiner is invited to telephone the undersigned at the below-listed telephone number.

Respectfully submitted,

MERCHANT & GOULD P.C.
P.O. Box 2903
Minneapolis, Minnesota 55402-0903
(612) 332-5300

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Anna M. Nelson
Reg. No. 48,935